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*Attorneys for Tucker Defendants, Counterclaimants,*

*and Third-Party Claimants*

**IN THE UNITED STATES DISTRICT COURT**

**IN AND FOR THE DISTRICT OF ARIZONA**

Labor Smart, Inc.

Plaintiff,

v.

Jason and Melissa Tucker,

Defendants.

And related Counterclaims  
and Third-Party Claims.

Case No. 2:22-cv-00357-PHX-JJT

**STIPULATION TO RESOLVE  
OUTSTANDING MOTIONS/  
PLEADING ISSUES**

(Before the Honorable J. Tuchi)

In good faith, undersigned counsel met and conferred to discuss outstanding pleadings/issues in this matter, in an attempt to streamline the case. As a result, the Parties agree and respectfully ask that the Court enter an Order confirming the following:

1. That the Clerk's Entry of Default against NextGen Beverages, LLC, be vacated and that NextGen Beverages' Motion to Set Aside (Doc. 173) be deemed moot;

2. That Labor Smart, Inc.'s Motion to Dismiss (Doc. 158) be withdrawn (without prejudice to refileing the arguments, if needed), which renders the Response to the Motion (Doc. 174) moot;

3. Based on the stipulations above, Defendants Tucker agree to file "First Amended Counterclaims and Third-Party Claims" by Friday, September 27, 2024, which shall replace the Counterclaims and Third-Party Claims previously raised (Doc. 148).

1 However, the Answer of the Tuckers, as stated in Doc. 148 shall remain in effect and  
2 shall be considered the operative Answer to the Complaint(s) against the Tuckers; and

3 4. Because a First Amended Counterclaims and Third-Party Complaint will  
4 be filed, no Third-Party Defendant will be required to file an Answer or other responsive  
5 pleading until 20 days after the amendment is on file.

6 This Stipulation is made in good faith, solely to promote efficiency for the Court  
7 and the Parties. A proposed order is submitted herewith.

8 RESPECTFULLY AGREED and SUBMITTED this 13<sup>th</sup> day of September, 2024.

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